

# **EXHIBIT B**

Clark, Roger  
L.C., a minor v. State of California

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

L.C., a minor by and through )  
her guardian ad litem Maria )  
Cadena, individually and as )  
successor-in-interest to )  
Hector Puga; I.H., a minor by)  
and through his guardian ad )  
litem Jasmine Hernandez, )  
individually and as )  
successor-in-interest to ) CASE NO. 5:22-cv-00949-KK  
Hector Puga; A.L., a minor by ) (SHKx)  
and through her guardian ad )  
litem Lydia Lopez, )  
individually and as )  
successor-in-interest to )  
Hector Puga; and ANTONIA )  
SALAS UBALDO, individually, )  
)  
Plaintiffs, ) ORAL AND VIDEOTAPED  
) DEPOSITION OF  
vs. ) ROGER CLARK  
) IN EXPERT CAPACITY  
STATE OF CALIFORNIA; COUNTY ) VIA WEB VIDEOCONFERENCE  
OF SAN BERNARDINO; S.S.C., a ) TUESDAY, MARCH 11, 2025  
nominal defendant; ISAIAH ) VOLUME I  
KEE; MICHAEL BLACKWOOD; )  
BERNARDO RUBALCAVA; ROBERT )  
VACCARI; JAKE ADAMS; and )  
DOES 6-10, inclusive, )  
)  
Defendants. )  
)

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Volume I of oral and videotaped deposition taken  
remotely on behalf of Defendants, commencing at 1:04  
p.m. on Tuesday, March 11, 2025 before Erika "Rik"  
Rutledge, Certified Shorthand Reporter No. 13774 for the  
State of California.

**Clark, Roger  
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LEGAL VIDEOGRAPHER:

Blake Jones - Dean Jones Legal Videos, Inc.

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1 REMOTE VIA WEB VIDEOCONFERENCE  
2 TUESDAY, MARCH 11, 2025 1:04 P.M.  
3 oo00oo  
4  
5 THE VIDEOGRAPHER: Good morning. This is the  
6 video deposition of Roger Clark, taken remotely on  
7 Tuesday, March 11th, 2025, in the matter of L.C., et  
8 al., versus the State of California, County of San  
9 Bernardino, case No. 5:22-CV-00949 KK-(SHKx.)

13:05:49 10 This case is being heard in the United States  
11 District Court in the Central District of the State of  
12 California.

13 My name is Blake Jones, legal videographer,  
14 contracted through Dean Jones Legal Videos, Incorporated  
13:06:02 15 of Los Angeles and Santa Ana, California.

16 Because we're not in person, the videographer  
17 will have to interrupt the proceedings if the deponent  
18 drifts out of frame or should any connectivity issues  
19 with Zoom occur.

13:06:02 20 This deposition is commencing at 1:06 p.m.  
21 Would all present please identify themselves, beginning  
22 with the deponent.

23 | THE WITNESS: Roger Clark.

24 MS. GUSTAFSON: Shannon Gustafson for the

13:06:21 25 County defendants. And also just to clarify for the

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1 record, this deposition is also being taken in the  
2 consolidated for discovery of Botten, et al. versus  
3 State of California, et al., and that case number is  
4 5:23-CV-00257-KK-SHK.

13:06:50 5 MS. ESQUIVEL: Diana Esquivel on behalf of the  
6 State defendants, appearing from Sacramento.

7 MS. LE: Hang Le on behalf of the plaintiffs in  
8 L.C., et al. versus State of California, and on behalf  
9 of the plaintiffs in Botten, et al. versus State of  
10 California, et al.

11 THE VIDEOGRAPHER: Would the court reporter  
12 please administer the oath.

13 THE REPORTER: You do solemnly swear that the  
14 testimony you are about to give in this deposition shall  
15 be the truth, the whole truth, and nothing but the  
16 truth, so help you God?

17 THE WITNESS: I do.

18 THE REPORTER: Thank you.

19 EXAMINATION

20 13:07:23 BY MS. GUSTAFSON:

21 Q Mr. Clark, how many times have you been  
22 deposed?

23 A Around 1,400 times. Well, depositions only  
24 would be 1,000 times.

25 13:07:35 Q So we can dispense with all the reading of the

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1 Q And so that was my question. Is there a  
2 requirement that you have -- when you have a high-risk  
3 traffic stop, that there must also be an evacuation, or  
4 is it dependent on the circumstances?

13:46:49 5 A Well, thank you for that little piece. Yes, it  
6 depends on circumstances.

7 Q During the time you were involved in a  
8 high-risk traffic stop, did you always have an  
9 evacuation that occurred as well?

13:47:16 10 A No.

11 Q Were pepper-ball launchers utilized as a tool  
12 when you were in law enforcement?

13 A No.

14 Q Have you ever used a pepper-ball launcher in  
15 any capacity?

16 A Not as a law enforcement officer.

17 Q In any capacity?

18 A As an expert I did in a case that went to the  
19 9th Circuit.

13:47:44 20 Q What case was that?

21 A Nelson versus Davis. It's listed in my  
22 qualifications. It's a pepper-ball injury. It's Nelson  
23 versus Davis.

24 Q So as part of your role as an expert in that  
25 case, you actually fired a pepper-ball launcher?

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1 A Yes. And I evaluated and tested the velocity,  
2 and it was all accepted by the court.

3 Q Is that the only time that you've ever fired  
4 pepper-ball launcher?

13:48:25 5 A A law enforcement pepper ball-launcher.

6 Q Is there a different type? I'm sorry.

7 A Oh, yeah. It's a knock-off -- my term -- from  
8 the paintball weapon. It's just that the projectile is  
9 configured to meet a law enforcement need. And there  
13:48:48 10 are a variety of them, two of which were used in this  
11 case.

12 So one is instead of paint, it's filled with a  
13 chemical agent, irritant. And then the other can be  
14 solid glass (indecipherable) as a kinetic energy device  
13:49:12 15 to break glass or windows. Then there are other  
16 projectiles also. But it's a variant -- my term -- of a  
17 paintball toy.

18 Q But in terms of using a pepper-ball launcher  
19 that actually expels a pepper ball, is it fair to say  
20 that you've only done that once in connection with this  
21 Nelson case?

22 A As a consultant on a case, yeah, correct. The  
23 others would be during playtime with grandkids.

24 Q I'm assuming when you were playing with  
25 grandkids, you were using paintballs, not pepper

1       balls?

2           A    Right.  It's the same type of weapon.  But, as  
3       you know, these venues, they have requirements for  
4       velocity.  You can rent the weapon, and they come in a  
13:50:10   5       number of configurations, or you can provide your own.

6               It has to be tested.  You have to have certain  
7       degree of armament, eye protection, and so forth.  
8       Because they're -- it's kinetic energy; it hurts, and it  
9       can cause injury.

13:50:29 10       Q    We're getting pretty far afield from my  
11       question.  The only time you've used the weapon where  
12       pepper balls were expelled was as an expert, because  
13       when you're talking about your grandkids, you're talking  
14       about a weapon where you're expelling paintballs.  Do I  
13:50:44 15       have that right?

16       A    Correct, yeah.

17       Q    Are you aware of any differences between the  
18       pepper-ball launcher utilized by law enforcement, in  
19       particular, the San Bernardino County Sheriff's  
13:50:58 20       Department, and a paintball gun?

21       A    Well, there are a lot of differences.  And then  
22       there have been refinements in the law enforcement  
23       pepper-ball weapon.  And it's continuing to evolve.  And  
24       they're demonstrated at the conventions and so forth.

13:51:28 25       However, I only saw an offering in the reports

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1 about this particular weapon, and I was -- one of the  
2 noteworthy ones would be Kenneth Hubbs's report on page  
3 25.

4 Q But my question was --

13:52:02 5 A And in his report he illustrates the San  
6 Bernardino training document about this particular  
7 weapon.

8 Q So my question, though, was, Are there  
9 differences between the pepper-ball launcher used by

13:52:19 10 San Bernardino and a paintball gun? And I believe your  
11 answer was yes to that; did I get that right?

12 A Yeah, there would differences in that one is --

13 Q No, no. What I was going to ask is, What are  
14 those differences?

13:52:33 15 A Well, I don't know for sure. But I took it  
16 from the documents that it's modified to meet law  
17 enforcement needs.

18 Q Can you tell me what those modifications are to  
19 meet law enforcement needs?

13:52:50 20 A Well, the projectiles are a modification.

21 Q Aside from the projectiles being pepper balls  
22 as opposed to paintballs, any other modifications that  
23 you're aware of?

24 A I'm not aware of the velocity standards for San  
13:53:11 25 Bernardino, and I can't recall the velocity standards

1 for recreational use.

2 Q I'm sorry -- I didn't mean to interrupt you.

3 A I paused. As I sit here, I don't recall. But  
4 there is an industry standard for velocity. Now,  
13:53:29 5 whether that's authorized more than that for law  
6 enforcement use by San Bernardino, I don't know. But  
7 it's adjustable. The velocity is adjustable with the  
8 weapon.

9 Q But is it fair to say as you sit here today,

13:53:48 10 you can't tell me what the differences are between the  
11 San Bernardino pepper-ball launcher and a paintball gun,  
12 other than that projectiles would be different?

13 A Correct.

14 Q Have you ever taken a class in a law

13:54:05 15 enforcement setting regarding the use of a pepper-ball  
16 launcher?

17 A No.

18 Q When was the last time you underwent any law  
19 enforcement training related to the use of a firearm?

13:54:31 20 A Well, law enforcement training would be '93  
21 before I retired out.

22 Q Are you currently an active firearms trainer  
23 for law enforcement?

24 A No.

13:54:43 25 Q Have you ever provided training in firearms to

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1 A No. I took it that he did have a gun.

2 Q **And that he had a gun when he was running?**

3 A I assumed that based on recovery of a gun and  
4 the gun that was where he went down, that that was his  
15:07:20 5 gun.

6 Q **You're aware that witnesses,**

7 **non-law-enforcement witnesses, testified to seeing**

8 **Mr. Puga with a gun?**

9 A I'm not aware -- I don't recall that

15:07:32 10 specifically. The videos don't show him -- I couldn't  
11 tell that he had a gun in the videos.

12 Q You would agree that the quality of the videos  
13 is not the best; right?

14 A There are some problems, and I haven't seen any  
15:07:49 15 enhancements. They're typical grainy, low-quality  
16 videos.

17 Q Are you aware of any witnesses as you sit here  
18 today that -- not law enforcement -- that testified that  
19 they saw Mr. Puga with a gun in his hand before he fell  
15:08:12 20 down?

21 A Let me look at some notes here. Just a minute.  
22 I don't recall as I sit here.

23 Do you want me to try to take a look?

24 Q **If you don't recall, that's fine.**

15:08:25 25 A I don't recall it. I took the physical

1 evidence as that -- the most important.

2 Q Do you have an opinion one way or the other as  
3 to whether Mr. Puga was holding a gun when he was  
4 running away?

15:08:53 5 A I looked for that. I couldn't tell that he had  
6 anything in his hands when he was pumping his arms  
7 running full blast away getting shot at.

8 Q That's based on your review of the video;  
9 right?

15:09:04 10 A Yes.

11 Q Which video are you referring to?

12 A So there are videos from the police, the police  
13 videos, and then there are some cell phone videos from  
14 across the street that show him -- really good views,  
15 the best viewing of him, at the front of his vehicle.

16 Q If there were witnesses that testified that she  
17 saw Mr. Puga running with a gun in his hand, it's not  
18 for you to make any credibility determinations there;  
19 you wouldn't substitute your review of the video for  
20 their witness testimony, would you?

21 A No. I thought it would be -- and my commentary  
22 is that there was a gun where he went down, there's a  
23 shell casing where he went down, and that's the best I  
24 could opine on in terms of what actually scientifically  
25 could be established.

1 A Yes.

2 Q Can a suspect still be a threat when they are  
3 on the ground?

4 A In the realm of possibilities, yes.

15:19:21 5 Q Is there evidence that Mr. Puga actually fired  
6 a gun while he was on the ground?

7 A I didn't see Mr. Puga firing a gun, period.  
8 So -- nonetheless -- so I didn't see it. And if he was  
9 on the ground when he fired the gun, I didn't see that  
15:19:36 10 either.

11 Q And by you didn't see that, are you referring  
12 to you watching the video?

13 A Watching the videos, plural, yes.

14 Q Based on the videos, you did not see any  
15:20:01 15 evidence that Mr. Puga fired the gun while he was on the  
16 ground?

17 A I didn't see it. I did not see it.

18 Q Were you aware that there was a fired casing  
19 found near the gun?

15:20:17 20 A I think I mentioned it three or four times  
21 during my deposition.

22 Q And that there was evidence then that Mr. Puga  
23 had fired the gun at some point?

24 A Yes.

15:20:34 25 Q Do you know when it was that Mr. Puga fired his

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1 apparently.

2 Q Do you have any opinions as to where Mr. Puga  
3 was when any of the 10 rounds that hit him actually  
4 struck him?

15:25:47 5 A No.

6 Q Can you say with any certainty if any of those  
7 10 rounds struck Mr. Puga after he was on the ground?

8 A No, I can't. Other than that there were  
9 rounds, I think something like 15 perhaps, after he was  
15:26:14 10 down still firing at him.

11 Q Can you state with any certainty which officers  
12 were still firing after Mr. Puga was on the ground?

13 A No.

14 Q I'll move to Opinion 5 in your report.

15:26:56 15 You've opined here that:

16 "Officers had time to provide Mr. Puga with  
17 a warning that deadly force was going to be  
18 used prior to the shooting."

19 Did I read that correctly?

15:27:09 20 A Yes.

21 Q At the point in time -- you did see Mr. Puga  
22 take his right arm and move it down towards his  
23 waistband area when he was in the front of the car?

24 A Yes.

15:27:25 25 Q And that happened before shots were fired?

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1 reach for that," and then the shooting begins?

2 A Right.

3 Q So are you saying there was an opportunity to  
4 give a warning during that interaction right before the  
16:49:54 5 shooting starts?

6 A No. I would consider that adequate.

7 Q What about during the second volley? Do you  
8 believe there was opportunity to give warnings after  
9 Mr. Puga started running?

16:50:16 10 A After -- yes, there would be shouted warnings.  
11 But you have the sound of the gunfire, so I did not  
12 consider that would be an opportunity.

13 Q Turning to your Opinion No. 4, when you state  
14 that:

16:50:50 15 "The officers violated standard police  
16 practices and training when they shot at  
17 Mr. Puga after he had fallen to the ground."  
18 Then I just wanted to make sure I understood  
19 your testimony earlier. Is there anything in the  
evidence that you can point to to support that -- your  
opinion that any of the CHP officers shot at Mr. Puga  
once he was already down on the ground?

23 A There were something like 15 rounds fired after  
24 he was -- after he fell to the ground.

16:51:38 25 Q In terms of those 15 shots, how do you know

1       there were about 15 shots fired after he fell to the  
2       ground?

3           A    That's in a sequence -- it's in -- just a  
4       minute. The composite video, Item 12, page three.

16:52:10 5           Q    Is that Mr. Kimmmins's video and report that  
6       you're referring to in No. 12?

7           A    Yes, the composite video.

8           Q    Have you been provided with Mr. Kimmmins's  
9       deposition testimony?

16:52:27 10          A    No.

11          Q    Okay. I'll represent to you that Mr. Kimmmins  
12       testified that he cannot verify the accuracy of the 15  
13       shots because it was hard to separate the echo from the  
14       actual gunshots.

16:52:52 15          A    Right. That's why I said approximate.

16          Q    If that were true, wouldn't you want to have  
17       some means to more accurately measure how many shots  
18       were actually fired after Puga was on the ground?

19          A    I don't contest any changes. What you hear --  
20       what you hear is -- or what you see in the video is that  
21       he's shot at after he falls to the ground.

22          Q    So are you basing this on when Mr. Puga falls  
23       to the ground or stops moving?

24          A    After he falls to the ground.

16:53:42 25          Q    Okay. And you saw the cell phone video showing

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1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF ORANGE )  
4  
5 I, Erika "Rik" Rutledge, Certified  
6 Shorthand Reporter, Certificate No. 13774, for the State  
7 of California, hereby certify:  
8  
9 I am the deposition officer that  
10 stenographically recorded the testimony in the foregoing  
11 deposition;  
12  
13 Prior to being examined, the deponent was  
14 by me first duly sworn;  
15  
16 The foregoing transcript is a true and  
17 accurate record of the testimony given.  
18  
19  
20 Dated: April 1, 2025  
21  
22  
23  
24  
25



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20 Erika "Rik" Rutledge  
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1 DEPOSITION ERRATA SHEET

2

3 Jilio-Ryan Job No.: 134476

4 Case Caption: L.C., et al.

5 vs. State of California, County of San Bernardino

6

7 DECLARATION UNDER PENALTY OF PERJURY

8

9 I declare under penalty of perjury  
10 that I have read the entire transcript of  
11 my Deposition taken in the captioned matter  
12 or the same has been read to me, and  
13 the same is true and accurate, save and  
14 except for changes and/or corrections, if  
15 any, as indicated by me on the DEPOSITION  
16 ERRATA SHEET hereof, with the understanding  
17 that I offer these changes as if still under  
18 oath.

19 Signed on the \_\_\_\_\_ day of  
20 \_\_\_\_\_, 2025.

21

22

23 ROGER CLARK

24

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